

Neri

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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PATRICK CARIOU,

Plaintiff,

Index No.:

vs.

08 CIV 11327 (DAB)

RICHARD PRINCE, GAGOSIAN

GALLERY, INC., LAWRENCE

GAGOSIAN, and RIZZOLI

INTERNATIONAL PUBLICATIONS,

INC.,

Defendants.

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DEPOSITION OF LOUISE NERI

New York, New York

Thursday, December 17, 2009

Reported by:
Bryan Nilsen, RPR
JOB NO. 305996-B

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1 Neri
 2 Q. Towards the bottom of the e-mail
 3 there's a heading that says additional Eden Rock
 4 slash pitch material written March 2008, and
 5 there are four items and then I guess kind of a
 6 summary, did you read that too?
 7 A. Yes.
 8 Q. Did that in any way help you prepare
 9 the press release?
 10 A. Yes.
 11 MS. BART: Objection, form.
 12 Q. Did it?
 13 You can answer.
 14 A. Yes.
 15 Q. Okay. After some point after
 16 October 7th, 2008, when you said I definitely
 17 want to talk to Richard, did you talk to him
 18 about this Canal Zone exhibition?
 19 A. I don't remember. I think it wasn't
 20 necessary. I only talk to the artist if
 21 absolutely necessary for me to do so.
 22 Q. How many drafts or versions of the
 23 press release did you go through?
 24 MS. BART: Objection, form.
 25 Q. You can answer.

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 2 A. Yes, I did.
 3 Q. Did you make changes?
 4 A. Very few from memory. There was a
 5 section on utopia which at one point was taken
 6 out and then was put in again, and that's
 7 documented.
 8 Q. Did you review any -- besides the
 9 pitch, which is text, did you review any images
 10 of any of the paintings in the Canal Zone
 11 exhibition in connection with preparing --
 12 A. Yes, I did.
 13 Q. -- the press release?
 14 MS. BART: Let him finish.
 15 Q. And where did you view those?
 16 A. As reproductions, as JPEGs.
 17 Q. As JPEGs?
 18 A. Mm-hmm.
 19 Q. And so you saw them where?
 20 Where were you when you saw them?
 21 A. Probably in my office.
 22 Q. You did not go up to Mr. Prince's
 23 studio?
 24 A. Never.
 25 Q. How many JPEGs, do you remember how

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1 Neri
 2 A. I don't recall.
 3 Q. Do you understand what I'm saying,
 4 what I'm asking?
 5 A. I do understand.
 6 Q. So it could have been one, just one
 7 final draft, or more than one?
 8 A. Usually I do one or two, maybe three
 9 that have very few changes, but just fiddling
 10 around when I'm writing. They're not full
 11 drafts that are different from each other.
 12 Q. Did anyone give you comments on your
 13 first draft of the press release?
 14 A. Yes.
 15 Q. Who?
 16 A. We have a process in the gallery
 17 whereby we have a review process. Melissa
 18 Lazarov, Richard would have seen that press
 19 release.
 20 Q. Richard Prince?
 21 A. Mm-hmm.
 22 Q. Who else?
 23 A. I think that was it.
 24 Q. Did you get comments from either of
 25 them?

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 2 many you saw?
 3 A. I can't recall. A few. Probably
 4 five.
 5 Q. Some of those images had pictures of
 6 Rastafarians, correct?
 7 MS. BART: Objection, form.
 8 MR. HAYES: Objection, form.
 9 Q. You can answer.
 10 You can answer.
 11 A. Yes, they did. Or I would say men
 12 with dreadlocks. I don't know if they were
 13 strictly Rastafarians.
 14 Q. Okay, so let's call them men with
 15 dreadlocks.
 16 Did you ever attempt to ascertain
 17 where those images came from, the ones with the
 18 men with dreadlocks?
 19 A. No.
 20 Q. Did you ever ask him?
 21 A. No.
 22 Q. Having worked with Mr. Prince before
 23 and knowing him, you knew he was known as an
 24 appropriation artist, correct?
 25 MS. BART: Objection, form.

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1 Neri
 2 MR. HAYES: Objection, form.
 3 Q. You can answer.
 4 A. Yes.
 5 Q. You knew he had a practice of
 6 appropriating images created by others and
 7 including them in his work, right?
 8 MR. HAYES: Objection, form.
 9 MS. BART: Objection, form.
 10 Q. You can answer.
 11 A. Yes.
 12 Q. Do you know if anyone at Gagosian
 13 Gallery attempted in this case to make sure that
 14 the images appropriated in the Canal Zone
 15 paintings were not copyright protected?
 16 MS. BART: Objection, form.
 17 MR. HAYES: Form.
 18 Q. You can answer.
 19 A. I don't know.
 20 Q. Let's talk about the press release
 21 then. I'm going to hand you what's been marked
 22 as Exhibit 31.
 23 Here's Exhibit 31. Do you know what
 24 Exhibit 31 is or what it is a copy of?
 25 A. It looks like a copy -- it looks

1 Neri
 2 third page of Exhibit 31. There appears to be
 3 some biographical information about Mr. Prince,
 4 correct?
 5 A. Yes.
 6 Q. Do you know if that's the artist
 7 info that's being referred to on the first page
 8 of Exhibit 31?
 9 A. I don't understand your question,
 10 I'm sorry.
 11 Q. You don't understand my question?
 12 A. No.
 13 Q. Do you know if you clicked on --
 14 A. Oh, sorry, I see it.
 15 Could you repeat the question?
 16 Q. Does the third page of Exhibit 31
 17 appear to be the artist info referred to on the
 18 first page?
 19 MS. BART: Objection, form.
 20 A. It appears to be. I can't tell you
 21 for sure.
 22 Q. Did you write the third page of
 23 Exhibit 31?
 24 A. Yes.
 25 Q. You personally?

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1 Neri
 2 like a website copy.
 3 Q. Whose website?
 4 A. Our website, Gagosian Gallery
 5 website.
 6 Q. Do the first two pages of Exhibit 31
 7 appear to be your press release as taken off the
 8 website?
 9 A. Yes.
 10 Q. Now, let me ask you this. On the
 11 first page do you see where it says artist info
 12 and it says view on the right?
 13 A. Yes.
 14 Q. Are you familiar with the Gagosian
 15 Gallery website?
 16 A. Yes.
 17 Q. If you were to click on that where
 18 it says view artist info, view, what would you
 19 get?
 20 A. It depends. You would either get a
 21 view of available works, or in the case of an
 22 exhibition you would have a view of the
 23 exhibition. In certain cases we shoot videos
 24 of the show.
 25 Q. In this case please look at the

1 Neri
 2 A. Yes.
 3 Q. You did?
 4 A. Yes.
 5 Q. Did you write it in connection with
 6 the Canal Zone exhibition?
 7 A. No.
 8 Q. Do you know when you wrote it?
 9 A. Within the year. I write a lot of
 10 material for the gallery on artists as we
 11 require information for many different reasons
 12 and we often reuse the information.
 13 Q. Do you think you wrote the
 14 description of Mr. Prince, the third page of
 15 Exhibit 31, before the press release, which is
 16 the first two pages of Exhibit 31?
 17 A. Yes.
 18 MS. BART: Objection to form.
 19 Q. The answer is what?
 20 A. Yes.
 21 Q. Now, one other question before we
 22 get to the text.
 23 On the left it says press release,
 24 is that a reference to this press release, the
 25 first two pages?

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 2 A. Yes.
 3 Q. And then underneath that it says
 4 view work, do you know what you would have
 5 gotten in late 2008 if you clicked view work?
 6 MS. BART: Objection, form, and
 7 asked and answered.
 8 MR. BROOKS: Not of this witness.
 9 MS. BART: Mm-hmm.
 10 MR. BROOKS: No, I asked her what
 11 would happen if you clicked on artist
 12 info.
 13 MS. BART: No.
 14 MR. BROOKS: Yes, I did.
 15 BY MR. BROOKS:
 16 Q. What would happen if you clicked on
 17 view work?
 18 A. You might see images from the
 19 exhibition or you might see general work.
 20 I can't be sure.
 21 Q. Let me show you --
 22 A. Depending on when it was done.
 23 Q. Let me show you what was marked as
 24 Exhibit 105 previously.
 25 The first two pages are the same

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1 Neri
 2 press release, right?
 3 MS. BART: Except that the date, the
 4 printout date is 12/14/2009 and this one
 5 says 12/8/2008.
 6 Q. All right. It's the same press
 7 release, right?
 8 MS. BART: Take a look.
 9 A. Yes, it's the same press release.
 10 Q. And if you look at the third page of
 11 Exhibit 105 what does that appear to be?
 12 A. Installation shots of an exhibition.
 13 Q. Of the Canal Zone exhibition?
 14 A. They're too small for me to really
 15 see there, but --
 16 Q. Why don't you look at the subsequent
 17 pages which are bigger copies of those images?
 18 MS. BART: And, again, just for
 19 the record, these pages are dated
 20 December 14th, 2009.
 21 MR. BROOKS: Right. We just printed
 22 it out from Google.
 23 MS. BART: But this witness has
 24 testified she doesn't know what it looked
 25 like in 2008.

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1 Neri
 2 MR. BROOKS: Well, she hasn't looked
 3 at it yet.
 4 BY MR. BROOKS:
 5 Q. So look through those and tell us
 6 what those are shots of.
 7 A. The car that was exhibited in
 8 gallery 108.
 9 Q. In the Canal Zone exhibition?
 10 A. Yes.
 11 Q. What else?
 12 A. It's basically an exhibition
 13 walkthrough.
 14 Q. Of the Canal Zone exhibition?
 15 A. Yes.
 16 Q. Thank you.
 17 Can I have that back, please?
 18 MS. BART: Sure.
 19 Q. On Exhibit 31 there's an image at
 20 the very top, it looks like somebody sitting on
 21 a donkey, do you see that, among other things?
 22 MS. BART: Objection, form.
 23 You can't see that from this
 24 photocopied image.
 25 MR. BROOKS: You need better glasses

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1 Neri
 2 then.
 3 MS. BART: You can't see that. I
 4 have glasses on.
 5 MR. BROOKS: Well, let's see if she
 6 can see it. It doesn't matter if you can
 7 see it.
 8 BY MR. BROOKS:
 9 Q. Do you see the image?
 10 MS. BART: Objection, form.
 11 MR. HAYES: Objection, form.
 12 A. I would not be able to tell what it
 13 was from this photocopy.
 14 Q. Do you see the image?
 15 A. Not really, no.
 16 Q. Is it better in 105, Exhibit 105?
 17 A. Yes.
 18 Q. You see a man sitting on a donkey?
 19 A. Yes.
 20 Q. I won't swear it's a donkey --
 21 A. Or the back of a donkey.
 22 Q. Some kind of --
 23 A. A mule maybe.
 24 Q. Who knows.
 25 Take a look at the Canal Zone